

United States District Court Southern District of Texas

Case Number: H-04-2387

ATTACHMENT

Description:

☐ State Court Record ☐ State Court Record Continued

☐ Administrative Record

☐ Document continued - Part _____ of _____

☒ Exhibit(s) number(s) / letter(s) Exh. 98 thru 100
to Pltff's First Amended Habeas Corpus

Other: _____

EXHIBIT 98

PARISH OF ORLEANS

STATE OF LOUISIANA

AFFIDAVIT OF ANNA ARCENEUX

COMES NOW, ANNA ARCENEUX, being duly sworn and deposes and states as follows:

1. I am a volunteer assisting Perry Austin's defense attorney.
2. I supervised intern Margot Vennik when she visited the TDC Hughes, Telford, and Allred units. This affidavit is based upon my information and belief derived from Margot's reports to me of her prison visits.
3. On July 1, 2005, Margot visited Brian Whetstone at the TDC Allred unit in Iowa Park, Texas.
4. Margot identified herself as assisting Perry Austin's defense attorneys.
5. Margot asked Brian Whetstone if she could talk to him about Perry Austin.
6. Brian Whetstone agreed to speak to her.
7. They spoke for about 3 hours.
8. Brian Whetstone made the following statements to Margot:

I arrived at the Hughes Unit in Gatesville, Texas in January of 1999. I have been on safekeeping since 1993. Between 1993 and 1999 I was locked up in the Ferguson Unit. At the Hughes Unit, we lived very separated from the general population inmates. The guards at the Hughes Unit were very prejudiced against the inmates on safekeeping. I'd

say that most of them are homophobic. They would greet us by saying things like: "Hi girls."

We were mostly the last group to eat and still we only got like two or three minutes to eat. We are supposed to get twenty minutes to eat. The Hughes Unit was the worst unit in terms of officers getting physical with us. When they used force on us, it was never called for. They would justify it by saying it was out of self-defense.

There are certain jobs that a safekeeping inmate can't do. We only get the "left-over" jobs that no one really wants to do. We could get jobs like: working at the laundry, work as a staff supporting inmate (SSI) or a job in the garment factory. They say that the reason we can't do the jobs that general population inmates get to do, is that we need supervision. I feel that that's nonsense, since they don't supervise anything. For instance, at the Hughes Unit, general population inmates could come in the safekeeping building and sometimes cause trouble. They are not supposed to come over, but the guards just didn't care. Whenever general population inmates caused trouble, the guards always chose their side.

I met Perry Austin in 1999. At first we were in different pods, but then I moved to the pod where Perry was housed and we became friends. Perry felt very strongly about officers who weren't doing their job. He would confront them about it and that irritated the officers. For example, officers are supposed to do an "in and out" every hour. They come by the 72 cells that are housed in one pod and [sic] open the doors of the cell. Then they are supposed to go by the other cells. When they return from doing that, they are supposed to give an inmate the opportunity to go out of his cell. Then they close the cell. I remember one time where officers did an "in and out" at the same time at Perry's cell.

Perry confronted the officers and as a result they shook down his cell, just because they were annoyed. Perry sometimes said that he wished he was on another unit. He just couldn't stand some of the officers.

After Perry was bench warranted to Harris County jail, he wrote to me a couple of times. He wrote about how glad he was that he wasn't in seg anymore. Perry said he was glad that he was awaiting the death penalty instead of being in seg at the Hughes Unit. Perry wrote about how filthy his cell was in seg at the Hughes Unit. He also said his food was always cold and that it wasn't nutritious at all. He said that while he was in seg at the Hughes Unit he hardly got the chance to go to recreation. The guards would always make up some excuse on why he couldn't go there. I remember Perry being kept on level 3, which is the worst level, all the time. He ended up there because officers wrote him a lot of cases. In my opinion, Perry got these cases over petty things.

About being in Harris County Jail Perry said that he didn't get to go to rec as much as he would liked [sic] to.

In his letters, Perry always stressed how glad he was that he wasn't in seg anymore. I think Perry was very tired, mentally tired.

Perry was always very stubborn. Whenever an officer asked to see his ID he would say things like: "You know where I live." I also remember Perry buying a pair of gym shorts. They were marked with green stripes to show that they came from the commissary. Sometimes officers would confiscate them, but we knew that he'd always get them back. We always had to coach him in giving the shorts to the officers. He was just so stubborn about it.

I remember Perry mentioning his interest in Satanism. He would try to tell me about it, but I told him that I really wasn't interested in that kind of stuff.

Perry exercised a lot, more than other people. Sometimes it got to the point where I would tell him to stop. He was kind of obsessed with it. When Perry was upset about something, he would clean his cell. That was 'his thing.' He cleaned his cell a lot more than other people.

Perry is a good person. He was always there for his friends. He would always put his friends first and wouldn't think about himself.

7. Margot Vennik asked Brian Whetstone if he was comfortable with his statements, and he said that he was.
9. On June 30, 2005, Margot visited Ricky Johnson at the TDC Telford unit in New Boston, Texas.
10. Margot identified herself as assisting Perry Austin's defense attorneys.
11. Margot asked Brian Whetstone if she could talk to him about Perry Austin.
12. Brian Whetstone agreed to speak to her.
13. They spoke for about 5 hours.
14. Ricky Johnson made the following statements to Margot:

I was locked up in the Hughes Unit on safekeeping in medium custody from 1999 until 2003. I lived in close distance from Perry Austin. We were good friends right away.

On safekeeping you don't get the same opportunities as they do in general population. For instance, a safekeeping inmate can't get on custody level G1 or P1. This

is the best level you can get on. Inmates on that level can have contact visits with anyone on the list four times a month. A G2 inmate can only have contact visits with direct family members and only three times a month. G1 inmates can be trustees and they can work outside.

At the Hughes Unit, officers can be aggressive. That never seemed to stop. Officers would tell me to hit another inmate to help them fix whatever problem they had with that inmate. Officers play power games with us. An officer would tell me to pick up another inmate's property. This is something an officer is supposed to do himself. Inmates are not allowed to pick up other inmate's belongings. Whenever something would be missing, they'd blame me. Or, if I refused to pick it up I would get a case for disobeying an order. We would always be the last to eat. I heard officers say things like: "Let's feed those punks last".

General population's inmates who live in dorms have a lot of freedom. Safekeeping inmates could never live in dorms because they simply don't have them. We don't have the same job opportunities as general population inmates. We would get jobs like: the last shift in the garment factory or 'field force'. We call that a "trouble job" because working in the field is hard labor. It's the job nobody wants. I feel that that's a punishment, not having that many job opportunities.

I met Perry Austin, I always called him Austin, in 2001 in the Hughes Unit. Perry Austin would lack common sense sometimes. For example, I remember Austin telling an officer that he wasn't wearing his name tag. So Austin told him that that was wrong and that he needed to know his name. Of course this officer tried to write Austin a case. He just didn't think about that.

Austin always felt that people were looking down on him. He felt that he didn't have any friends and that he had nothing to live for. I remember Austin being very depressed because he and Frank had broken up their relationship. I think Austin didn't want other people to know that he depressed, but I noticed it.

Austin wrote me a lot of letters from Harris County jail. He wrote me at least once a week, maybe even more. He wrote about how terrible it was in Harris County jail.

Before Austin was bench warranted I tried to talk him out of pleading guilty. But Austin wouldn't listen to me.

I believe that people tried to take advantage of Austin. He was just too friendly and in here you just can't be that way. I think that he always expects people to backstab him.

Officers picked on Austin. They would call him fagot or punk.

I remember Austin buying excessive amounts of toothpaste and deodorant. We would go to the commissary once every fourteen days and I'd buy one of each, but Austin would buy six or seven of each. He bought a lot of hygienic stuff. He liked to be clean.

I remember Austin being interested in Satan worshipping, although he wasn't a Satan worshipper himself.

15. Margot Vennik asked Ricky Johnson if he was comfortable with his statements, and he said that he was.

16. On June 29, 2005, Margot visited John Creekmore at the TDC Hughes unit in Gatesville, Texas.

17. Margot identified herself as assisting Perry Austin's defense attorneys.

18. Margot asked John Creekmore if she could talk to him about Perry Austin.

19. John Creekmore agreed to speak to her.

20. They spoke for about 2 hours.

21. John Creekmore made the following statements to Margot:

I have been in safekeeping at the Hughes Unit for seven years. I don't agree with the State saying that a safekeeping inmate has the same freedoms as a general population inmate on the same level. First of all, we are not allowed to go outside the fence. Safekeeping inmates are also restricted in their job options. We can work on laundry, in the kitchen of the segregation section, as a Staff Supporting Inmate of their building and we can work the Third shift (the late shift) in the garment factory. We are allowed to work the late shift because the general population inmates are already gone then. Sometimes, our commissary days are postponed so we don't get to go.

Officers tend to treat safekeeping inmates badly. Most of the officers are homophobic. They will call us names on a daily basis. Then there's the shower situation. There are two showers on every section that we can use. Actually, there are five showers, but they refuse to turn the other three on. Now we have to shower in two hours and there's 48 of us.

General population inmates work while and in the same room where safekeeping inmates have their meals. Sometimes they will pick an argument with us. The officers

will take the side of the general population inmate even though they know that they started the fight. We are rushed through lunch and dinner. We barely get time to eat.

I met Perry Austin in around 1998/1999. We became good friends right away. We lived in the same section. Perry would have different moods. He would be quiet a lot.

After Perry returned from being in segregation, he was more subdued. I felt that Perry didn't deserve to be in seg. I used to work in seg so I know that the officers who work there were even worse than the officers in safekeeping when it comes to name calling. I felt that being in seg was worse for Perry, after he came back to safekeeping it seemed like he didn't care about anything anymore. Being in seg really closed Perry up.

I could tell that Perry was depressed. When Perry left to Harris County jail, I was in minimum custody. Perry had been in medium custody. I had no idea where he was going. Later, Perry wrote me letters from Harris County jail. Perry used to be real depressed in his letters. Perry can get so depressed that he wants to give up on everything, even on his own life.

I have also been in safekeeping at Ferguson. The circumstances were better there. There were more work opportunities and we could work and eat with general population inmates. The guards there treated us better there. I think that the guards there are more used to safekeeping inmates. Here at the Hughes Unit, safekeeping is very separated.

22. Margot Vennik asked John Creekmore if he was comfortable with his statements, and he said that he was.

23. On June 29, 2005, Margot visited Michael Harrell at the TDC Hughes unit in Gatesville, Texas.

24. Margot identified herself as assisting Perry Austin's defense attorneys.
25. Margot asked Michael Harrell if she could talk to him about Perry Austin.
26. Michael Harrell agreed to speak to her.
27. They spoke for about 2 hours.
28. Michael Harrell made the following statements to Margot:

I have been at safekeeping in the Hughes Unit for six years. Being in safekeeping gives me less options concerning jobs than if I was locked up in general population. We can't work with general population inmates. Safekeeping inmates are allowed to work in the laundry and as a Staff Supporting Inmate (SSI). When I first got here, the guards would beat up inmates. I have seen it happen.

I was shipped over from Ellis II Unit. I met Perry Austin here. We were in the same section. We became pretty good friends. Perry had a big heart and always tried to help other people. I guess that made him feel good. Perry wouldn't ask anything for himself.

Perry didn't really talk about how he felt. He just had an attitude like he didn't care. But this was only an attitude.

I know that Perry was kept in administrative segregation for a while. I believe that being in seg really messes with a person mentally.

As soon as Perry's Bench Warrant came out, he started closing up. Perry kept his thoughts more and more to himself. Most inmates didn't say anything about it. They were just glad it wasn't their problem. We tried to talk to Perry about it, but he clearly didn't want to. Perry would answer every question with "ok" to try to be left alone.

Certain officers at safekeeping don't treat us well. I know they are homophobic. They would organize an extra shakedown, out of hatred. They know they will get away with it. I really feel that certain officers don't like safekeeping inmates. I have also been locked up in safekeeping at Coffield Unit. I felt they were treating me more like a person there.

29. Margot Vennik asked Michael Harrell if he was comfortable with the above statements, and he said that he was.

30. On June 29, 2005, Margot visited Jeffrey Wilson at the TDC Hughes unit in Gatesville, Texas.

31. Margot identified herself as assisting Perry Austin's defense attorneys.

32. Margot asked Jeffrey Wilson if she could talk to him about Perry Austin.

33. Jeffrey Wilson agreed to speak to her.

34. They spoke for about 2 hours.

35. Jeffrey Wilson made the following statements to Margot:

I have been in safekeeping for fifteen years. I have been in safekeeping in the Hughes Unit for the past six years.

The circumstances on safekeeping are supposed to be similar to those in general population. However, a G2 inmate on safekeeping is treated differently than a G2 general population inmate. For example, I don't get as many options when it comes to jobs.

When you are locked up in safekeeping, you get three options:

1. A staff Supporting Inmate (SSI) position on seg.

2. A job at the laundry

3. A job in the garment factory.

A general population inmate can choose to work in the kitchen, the chapel, with the horses, in maintenance, in school, the infirmary etc. I would feel a lot happier if I had more job options.

A safekeeping inmate is only allowed in units where safekeeping is located. So when it comes to school and certain classes that are given, safekeeping inmates don't get the same options if a class is given in a unit without safekeeping. We are simply not allowed to go there.

The officers who work on the safekeeping unit mess with you. They call us names and beat us up. When Perry Austin was in safekeeping at the Hughes Unit, the officers would beat someone up at least once a week. The officers are very homophobic.

As a G2 inmate, I have a minimum of around 42 hours that I can spend out of my cell.

I'm aware of the fact that Perry Austin was in administrative segregation at one point. I met Perry after he returned from seg to safekeeping. We lived in the same section. The transition from seg to safekeeping was very hard on Perry. At one point, I thought about having a relationship with Perry, but because he was so depressed and suicidal, I decided not to. When I told him that, Perry was depressed. He didn't really respond to me. He would say things like: "yeah, whatever". Perry is a very passive person.

Being in seg really messed up Perry. He felt really isolated. Some people adjust to life on safekeeping when they return, but Perry didn't. The Hughes safekeeping unit is

different from other safekeeping units, its worse. Perry has literally said to me that he wanted to die.

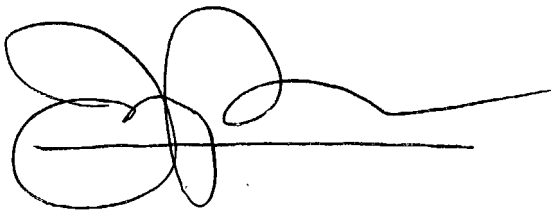
36. Margot Vennik asked Jeffrey Wilson if he was comfortable with the above statements, and he said that he was.

I clearly recall the things in this statement but this is not all that I recall. I make this statement in the belief that if I lie, I would be guilty of perjury.



Anna Arceneaux

Signed and sworn to me this 18th day of July 2005.



DAVID PARK
#28973

PARISH OF ORLEANS

STATE OF LOUISIANA

AFFIDAVIT OF ANNA ARCENEUX

COMES NOW, ANNA ARCENEUX, being duly sworn and deposes and states as follows:

1. I am a volunteer assisting Perry Austin's defense attorney.
2. On July 1, 2005, I visited Greg McCracken at the TDC Roach unit in Childress, Texas.
3. I identified myself as assisting Perry Austin's defense attorneys.
4. I asked Greg McCracken if I could talk to him about Perry Austin.
5. Greg McCracken agreed to speak to me.
6. We spoke for about 2 hours.
7. Greg McCracken made the following statements to me:

I met Perry Austin at Harris County Jail in 2001 when we were both awaiting our trials. We were both in seg.

Perry and I started talking at recreation because we both read the Bible.

Perry told me that he fired his lawyer and was representing himself so he could get the death penalty.

I was in Harris County Jail when Tropical Storm Allison hit Houston. I remember that for almost 2 days we were only given fruit (one piece) and milk for breakfast and a little Debbie snack and milk at night. It was pitch black and you couldn't see your hand in front of your face. The guards did not tell us what was going on the first day. Some of the guys flooded their cells by flushing the toilet over and over, so it stunk, and there was water on the floor.

I remember that 1301 was very isolated. Perry and I and some others were cuffed and shackled during rec. The guards would take us off to one side. The shackles and cuffs meant very limited movement. We got to do this maybe once a week. Sometimes we wouldn't get to rec for two or three weeks. It lasted for an hour or so.

Perry was very mellow and calm. I couldn't believe that someone like him would kill someone.

I remember Perry writing me after we had both left Harris County, and he told me he was trying to stop his appeals, so he could receive the death penalty more quickly.

I remember that Perry liked writing. We would write to each other almost weekly. His letters would be at least 2 pages, handwritten.

I remember one time when Perry showed up to rec with bandages on his hands because the guards had slammed his hand in the door.

I remember that Perry went on a hunger strike. But I don't know why because when you're on a hunger strike, they don't let you go to rec.

In 701, there was no TV in our cells. There may have been one in the day room, but we couldn't see it, and it could have been just a metal box where the TV was supposed to go.

I remember that Perry didn't have a TV for two weeks. My neighbor didn't have a TV for 10 days, and I remember he cut himself. I saw them taking him out with blood all over himself.

There were times when we would go to rec, and Perry would just stay by himself and wouldn't talk to anyone.

Perry told me more than once that he had thought about killing himself.

I remember that if you made the guards mad, they would beat you. One time about six guards beat me because I was trying to get my toilet fixed. It had been broken for almost 3 days, and no one would fix it. I was sent to the infirmary and had a broken toe, a busted nose and my back was hurt. I couldn't get out of bed for 2 or 3 days. I remember the nurse at the infirmary saying "This is ridiculous. I don't know how many times I've seen this." This kind of thing would happen in 1301 anytime you made the guards mad.

I remember that Perry wasn't at rec for awhile. I know that he was sick of the cuffs and shackles, but I had to get out of the cells for awhile. To me that was the worse [sic] thing.

In 701, we got an hour a day to do everything – make phone calls, shower, whatever. Your hour could be at any time of the day. It could have been real early or real late. In 1301, if a guard was mad at you, he would just ignore you and not let you go [to rec]. We didn't have rec at all in 701.

I remember that Perry told me one time that he wished he could just end his life, but he didn't want to end his own life because he didn't want to go to hell.

7. I asked Greg McCracken if he was comfortable with his statements, and he said that he was.
8. On June 30, 2005, I visited Jorge Rodriguez at the TDC Telford unit in New Boston, Texas.
9. I identified myself as working for Perry Austin's defense attorneys.
10. I asked Jorge Rodriguez if I could talk to him about Perry Austin.
11. Jorge Rodriguez agreed to speak to me.
12. We spoke for about 5 hours.
13. Jorge Rodriguez made the following statements to me:

I met Perry Austin in Harris County Jail in November or December 2001. We shared a cell for about a year.

I remember that Perry is very sensitive and has a lot of depression.

Perry used to be a real Christian person. I remember he did Bible studies.

I remember that Perry did not do any drugs when I knew him at Harris County.

I remember that Perry was very clean, a real clean person. He liked to clean our cell, his clothes, everything.

Perry had unprotected sex with me even though he knew I was HIV positive. He said he did not care about getting HIV. It did not bother him at all.

Perry was very protective of his friends. He would always stand up for me.

At Harris County, it was a hard place to live because there are fights everyday over TV, the radio, relatively stupid things. There is one tank for 40 people. It was very small for that many people.

I remember one time when Perry was crying with me. He told me he was so tired of "this fucking life."

Perry was very sad because his family doesn't talk to him. He told me that when he dies, he wants to send his ashes to his family so he could be with them.

Perry told me he was on trial because he was asking a jury to give him lethal injection.

I remember that Perry told me that when he was in seg at Harris County that he had to wear handcuffs and shackles during his recreation time.

At Harris County, there was only one TV in the day room for 40 people. The radios on the walls in the cells did not work when I got there in 2001.

I believe John Thompson had AIDS, not HIV.

14. I asked Jorge Rodriguez if he was comfortable with his statements, and he said that he was.

15. On June 29, 2005, I visited Frank Skoff at the TDC Hughes unit in Gatesville, Texas.

16. I identified myself as working for Perry Austin's defense attorneys.

17. I asked Frank Skoff if I could talk to him about Perry Austin.

18. Frank Skoff agreed to speak to me.

19. We spoke for about 2 hours.

20. Frank Skoff made the following statements to me:

I know Perry Austin from the Hughes Unit.

I remember that Perry was frantic about anything. He gets real worried real quick. He might think something else was going on when it really wasn't, like paranoia.

Perry is pretty defeatist. I think he thought he was gonna go back to seg and he was doomed. The guard who he pinned down was unsupervised and all these other guards came and were mad that the guard had been unsupervised. They took it all out on Perry, so he thought for sure he would do a bunch of seg time after that.

People like Perry can get real depressed in seg. The type of isolation he had to deal with, he might have withdrawn as quickly as possible.

Every time he wrote me letters he wanted to get it over with as quickly as possible. He would do whatever it would take to bring that about.

Since the safekeeping unit didn't open at Hughes until October 1998, when it opened, it became the scapegoat. Everyone could hose on safekeeping and make themselves feel better. They would slam doors, holler, create chaos.

I remember one time when Perry had this mattress – it was real uncomfortable. So he rolled it up and put it under his table. When the sergeant came in and yelled at Perry to come put it back on the bed, Perry picked it up and threw it on the floor where they were watching TV in the day room.

Safekeeping gives you the attitude why even try to do right for?

When Perry twists off, he twists off big time. Perry would get mad over things like that.

In safekeeping, they antagonize people more – not all of the guards but maybe 50%. When we first got here, they had safekeeping and guards working seg back then. It got

really bad with them. Once they saw that the seg bosses were beating the prisoners up and getting used to it, they started doing it themselves.

As far as freedoms go, the commissary is different, the food is different, they have more limitations on how much you can buy, they don't hold stuff back for us, unlike in general population.

General population prisoners harass those at safekeeping, they make fun of homosexuals. When you add it all up, it really makes for a really bad day, especially for someone like Perry. I'm sure that it had a lot of effect on him.

Perry and I were like gasoline and matches. If one person got mad, a small situation would get out of hand real quick.

Perry just didn't care. He might take an inhaler and basically try to suffocate himself. I would say that's pretty suicidal.

Some of the safekeeping prisoners are nothing but crybaby weirdos and they want them to cater to you. This stuff gets to you, and it made it worse for Perry.

21. I asked Frank Skoff if he was comfortable with his statements, and he said that he was.

22. On June 29, 2005, I visited Troy Treadway at the TDC Hughes unit in Gatesville, Texas.

23. I identified myself as working for Perry Austin's defense attorneys.

24. I asked Troy Treadway if I could talk to him about Perry Austin.

25. Troy Treadway agreed to speak to me.

26. We spoke for about 2 hours.

27. Troy Treadway made the following statements to me:

I met Perry on the safekeeping unit at Hughes. I met him about 6 or 7 years ago. We were pretty good friends. I got to know him pretty well.

Perry's mental state wasn't good.

Perry was real picky on who he was associated with. He didn't have a lot of friends, just a few of us that we talked to. He wasn't an open person.

Perry didn't associate with many people. He didn't get real personal with too many people.

Perry was good people, and you don't find that a lot in here. He sure don't need the death sentence. But you couldn't say anything to him about it. He was ready to go. I think not going home overwhelmed him.

Perry was a real clean fanatic. He had a celly that was not very clean one time, and Perry would put all of this things in one area. Perry would have to have talks with him. He was the same way with his body. He used to shave his arms and stuff like that.

Perry changed from a happy go lucky person and then suddenly there was nothing. He was just more quiet, really closed up.

Perry was extremely loyal to his friends. He was pretty outspoken when his friends were in trouble. You can't do that in here – sometimes it's better to mind your own business. I remember one time Frank was in trouble, and Perry got involved just out of friendship. He didn't care about the consequences. For him to do that in here, it could have been bad.

Perry was depressed when he and Frank broke up. I think Perry and Frank had been into Wikka or something at one point.

I remember one time when there was a major shakedown, and Perry needed to use the restroom. All of a sudden, the guard was slamming him down. I don't know how it happened. It was out of the blue. He got locked up after that.

Perry went from real positive to real negative. We tried to cheer him up about it but he wouldn't.

Perry would clean all of our bowls – wiping them down with bleach – when we would eat together. I don't know anyone else who did that. He would clean everything down, like when we were watching TV.

28. I asked Troy Treadway if he was comfortable with the above statements, and he said that he was.

29. On June 29, 2005, I visited Russell Olstad at the TDC Hughes unit in Gatesville, Texas.

30. I identified myself as working for Perry Austin's defense attorneys.

31. I asked Russell Olstad if I could talk to him about Perry Austin.

32. Russell Olstad agreed to speak to me.

33. We spoke for about 2 hours.

34. Russell Olstad made the following statements to me:

I know Perry Austin from the Hughes Unit for about 15 years. We were on the Beto 1 together. I was friends with Perry, and we were both friends with Frank Skoff.

I remember that Perry seemed a little high strung and always nervous. He seemed like he was pretty much a loner around here. He seemed agitated. I know he had a lot of problems.

I always tried to keep him upbeat and be a friend.

When an offender goes to lockup they usually get their property. But if something is missing, I'll make sure they get the property. If I was around when Perry was in trouble, if the word got back to me or Frank, we would have made sure that he got his property.

I remember that Perry was very stubborn and hardheaded. When he sets his mind to something, it was very hard to change it. I can't remember any times when Perry wasn't like that.

I remember that Perry was very loyal to his friends. He would help us out in any way he could. One of the things you don't do in here is trust an inmate, but you could trust Perry.

As far as movement, back then in safekeeping, you had to be escorted almost everywhere.

In 1999, they changed the system and going to safekeeping was like going to ad seg.

This had a depressive effect on people, and it was even worse for Perry. It made him withdraw.

Perry seemed like he was waiting to lose hope, remaining real hopeless.

You lost a lot of freedom from Beto 1 to here. There is so much bitterness and hatred from general population inmates so you wonder when is this going to end.

In safekeeping you can lose hope really easily. The entire world is sitting on your head.

It is easy to get depressed in here when you have no idea what the next change will be. Perry reacted worse to changes than other people.

Perry and I first connected because we had no outside contact, no one to depend on.

Perry was good to be around. He didn't have problems with security.

It is common practice to run in with security.

I remember that Perry and Frank were starting to get into the magical aspects of religion, like Wikka. Perry was trying to look for divinity somewhere, something outside, what's beyond.

When TDC stopped all inmate contact, it was very hard on us because you can't get any type of support.

35. I asked Russell Olstad if he was comfortable with the above statements, and he said that he was.

I clearly recall the things in this statement but this is not all that I recall. I make this statement in the belief that if I lie, I would be guilty of perjury.



Anna Arceneaux

Signed and sworn to me this 18th day of July 2005.

R N W
R Neal Walker
22217

EXHIBIT 99

TDCJ
Unit Classifications
P.O. Box 99
Huntsville, Texas 77342-0099

facsimile transmittal

To: Richard Bourke Fax: 504-558-0378
From: Thomas Wana / TDCJ Date: 7-14-05
Re: Austin, Perry #909410 Pages: 3
CC: Original notarized copy will follow in mail.
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle



01222

CONFIDENTIAL

AFFIDAVIT

THE STATE OF TEXAS 3
COUNTY OF WALKER 3

BEFORE ME, the undersigned authority, on this day personally appeared **THOMAS WARREN**, who, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed:

My name is **THOMAS WARREN**. I am over twenty-one years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am employed as Administrative Assistant to the State Classification Committee for the Texas Department of Criminal Justice Correctional Institutions Division, and the attached letter is a correct representation of the **commitment and unit of assignment history** regarding offender **Austin, Perry Allen**, **TDCJ#292744, #679144, #99410**, now on file within Classification and Records of the Texas Department of Criminal Justice Correctional Institutions Division.

In witness whereof, I have hereto set my hand this the 14th day of July, 2005.



THOMAS WARREN,
Administrative Assistant To The
State Classification Committee

SWORN TO AND SUBSCRIBED BEFORE ME, by the said **THOMAS WARREN** on this 14th day of July, 2005, to certify which witnesses my hand and seal of office.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



TEXAS DEPARTMENT OF CRIMINAL JUSTICE

P. O. Box 99, Huntsville, Texas 77342-0099

Brad Livingston
Executive Director

July 14, 2005

Louisiana Capital Assistance Center
Attn: Richard Bourke
636 Baronne Street
New Orleans, La 70113

RE: Austin, Perry Allen

TDCJ# 292744, #679144, & #999410

Dear Sir or Madam:

The files of this agency have been reviewed concerning Austin, Perry Allen, TDCJ# 292744, pursuant to your request.

The subject inmate was admitted to custody on 7-2-79, with credit allowed from 10-6-78, on a 30-year sentence from Harris County charged with Aggravated Rape, Attempted Aggravated Rape (2-counts), and Aggravated Robbery. The subject offender was assigned to the **Ferguson Unit** in Midway, Texas on 7-2-79 until 7-19-79 when he was transferred to the **Wynne Unit** in Huntsville, Texas. The subject offender was transferred on 4-2-86 to the **Clemens Unit** in Brazoria, Texas. The offender was next transferred on 5-1-86 to the **Beto 1 Unit** in Tennessee Colony, Texas. On 12-13-89 the subject offender was again transferred to the **Ellis 2 Unit** in Huntsville, Texas per unit administration recommendation. The subject offender was again returned to the **Beto Unit** on 2-6-90 to participate in a drafting course. On 9-5-90 the subject offender was transferred to the **Coffield Unit** in Tennessee Colony, Texas. The offender remained assigned to the **Coffield Unit** until he was released from custody by mandatory supervision on 7-24-91 to Harris County.

The subject offender was returned to custody on 5-25-94 in violation of parole and issued #679144, with credit allowed from 9-5-92, from Harris County with a new conviction and a new number. The subject offender received a new 30-year conviction from Harris County charged with Sexual Assault of a Child. The subject offender was initially assigned to the **Tulia Unit** in Tulia, Texas until 9-28-94 when he was transferred and assigned to the **Eastham Unit** in Huntsville, Texas. On 9-30-97 the subject offender received new commitments from Houston County on a new 20-year cumulative sentence for Aggravated Assault with a Deadly Weapon. This changed the offender's sentence from 30-years to 50-years. The subject offender remained assigned to the **Eastham Unit** until 12-22-98 when he was transferred to the **Alfred Hughes Unit** in Gatesville, Texas. The subject offender was released from custody by bench warrant on 3-14-01 to Harris County Jail. The subject offender was returned to custody on 4-25-02 and was assigned to the **Polunsky Unit** in Livingston, Texas where he currently remains. While out on bench warrant to Harris County the subject offender received a Death sentence on 4-3-02 by the 339th District Court of Harris County charged with Capital Murder. On 4-26-02 the subject offender was reprocessed and issued #999410 due to this new conviction from Harris County.

The subject inmate currently remains in assigned to Death Row at the **Polunsky Unit** in Palestine, Texas.

Sincerely,

Thomas Warren
SCC Assistant
(936) 437-8696

EXHIBIT 100

①

Affidavit of Dempsey Sutton

My name is Dempsey Sutton. I am over eighteen years of age and have first hand knowledge of the facts set out in the following 4 pages except where otherwise indicated.

① I first met Perry Austin in the late 1980s in Eastham.

I was with him in Eastham until I left there in 2001.

I was with him in Eastham Segregation from 1996 until 1998, when I got out. We got along together, we were friends.

② I was able to cope well in Segregation, I liked the peace and quiet. It was very isolated there which suited some guys like me. I did see some guys hang themselves in there and I also knew that a lot of guys would cut themselves as well.

③ Around 1992 or 1993 Perry got involved in a group that was interested in Satanism. In this group there

(2)

was Batman (Kevin Balts), Tony Coats, Gighin, Reush,
~~Villareal~~, DS.

Villareal. They would sit around and talk about the devil, have meetings and try and create a disturbance at church services. This group would isolate themselves from other people, Perry became more involved and we didn't talk as much, we drifted apart.

④ This group was involved in the stabbing of Tony Franklin. Tony Franklin did not want to be in a relationship with Batman anymore so Batman got angry. A guy called Harvey Pell Pickey pointed out all of this group as involved.

⑤ Perry told me he did not do the stabbing. Later Gighin told me that Perry Austin had taken the rap for this stabbing.

(3)

⑥ Sometimes in Segregation people would try to talk to Perry and he would say he didn't want to talk or ignore them. There were also times when he would ball up in a corner with his hands on his knees. People would come and ask him what was wrong, he would stay quiet.

⑦ There were periods of two or three days where he would just lie in bed in Segregation. He wouldn't eat, wouldn't shower and wouldn't come out of the cell.

⑧ I found out that his family wasn't having anything to do with him anymore, they wouldn't return ~~the~~ his mail. He couldn't understand why.

⑨ He did used to get a lot of mail, every other night a lot would come in. I don't know how often he was writing.

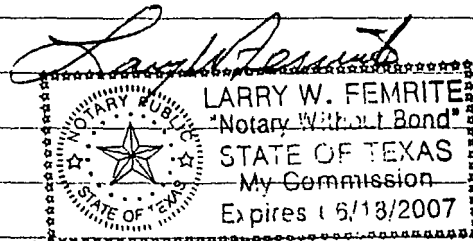
I have not been threatened or promised anything to make this statement. I remember all of these

things clearly but this is not all that I remember.

The contents of these 4 pages are true and correct and I make this affidavit in the belief that to lie in the circumstances would expose me to penalties for perjury.

Dempsey Suttow
Dempsey Suttow

Signed and sworn to me on this 11 day of
June 2004



Notary Public, State of Texas

My commission expires